

SHB 1147 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED AS AMENDED 04/12/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read  
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Board" means the indeterminate sentence review board created  
8 under chapter 9.95 RCW.

9 (2) "Collect," or any derivative thereof, "collect and remit," or  
10 "collect and deliver," when used with reference to the department,  
11 means that the department, either directly or through a collection  
12 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
13 and enforcing the offender's sentence with regard to the legal  
14 financial obligation, receiving payment thereof from the offender, and,  
15 consistent with current law, delivering daily the entire payment to the  
16 superior court clerk without depositing it in a departmental account.

17 (3) "Commission" means the sentencing guidelines commission.

18 (4) "Community corrections officer" means an employee of the  
19 department who is responsible for carrying out specific duties in  
20 supervision of sentenced offenders and monitoring of sentence  
21 conditions.

22 (5) "Community custody" means that portion of an offender's  
23 sentence of confinement in lieu of earned release time or imposed  
24 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
25 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
26 community subject to controls placed on the offender's movement and  
27 activities by the department. For offenders placed on community  
28 custody for crimes committed on or after July 1, 2000, the department  
29 shall assess the offender's risk of reoffense and may establish and

1 modify conditions of community custody, in addition to those imposed by  
2 the court, based upon the risk to community safety.

3 (6) "Community custody range" means the minimum and maximum period  
4 of community custody included as part of a sentence under RCW  
5 9.94A.715, as established by the commission or the legislature under  
6 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

7 (7) "Community placement" means that period during which the  
8 offender is subject to the conditions of community custody and/or  
9 postrelease supervision, which begins either upon completion of the  
10 term of confinement (postrelease supervision) or at such time as the  
11 offender is transferred to community custody in lieu of earned release.  
12 Community placement may consist of entirely community custody, entirely  
13 postrelease supervision, or a combination of the two.

14 (8) "Community protection zone" means the area within eight hundred  
15 eighty feet of the facilities and grounds of a public or private  
16 school.

17 (9) "Community restitution" means compulsory service, without  
18 compensation, performed for the benefit of the community by the  
19 offender.

20 ((+9)) (10) "Community supervision" means a period of time during  
21 which a convicted offender is subject to crime-related prohibitions and  
22 other sentence conditions imposed by a court pursuant to this chapter  
23 or RCW 16.52.200(6) or 46.61.524. Where the court finds that any  
24 offender has a chemical dependency that has contributed to his or her  
25 offense, the conditions of supervision may, subject to available  
26 resources, include treatment. For purposes of the interstate compact  
27 for out-of-state supervision of parolees and probationers, RCW  
28 9.95.270, community supervision is the functional equivalent of  
29 probation and should be considered the same as probation by other  
30 states.

31 ((+10)) (11) "Confinement" means total or partial confinement.

32 ((+11)) (12) "Conviction" means an adjudication of guilt pursuant  
33 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of  
34 guilty, and acceptance of a plea of guilty.

35 ((+12)) (13) "Crime-related prohibition" means an order of a court  
36 prohibiting conduct that directly relates to the circumstances of the  
37 crime for which the offender has been convicted, and shall not be  
38 construed to mean orders directing an offender affirmatively to

1 participate in rehabilitative programs or to otherwise perform  
2 affirmative conduct. However, affirmative acts necessary to monitor  
3 compliance with the order of a court may be required by the department.

4 ~~((+13+))~~ (14) "Criminal history" means the list of a defendant's  
5 prior convictions and juvenile adjudications, whether in this state, in  
6 federal court, or elsewhere.

7 (a) The history shall include, where known, for each conviction (i)  
8 whether the defendant has been placed on probation and the length and  
9 terms thereof; and (ii) whether the defendant has been incarcerated and  
10 the length of incarceration.

11 (b) A conviction may be removed from a defendant's criminal history  
12 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or  
13 a similar out-of-state statute, or if the conviction has been vacated  
14 pursuant to a governor's pardon.

15 (c) The determination of a defendant's criminal history is distinct  
16 from the determination of an offender score. A prior conviction that  
17 was not included in an offender score calculated pursuant to a former  
18 version of the sentencing reform act remains part of the defendant's  
19 criminal history.

20 ~~((+14+))~~ (15) "Day fine" means a fine imposed by the sentencing  
21 court that equals the difference between the offender's net daily  
22 income and the reasonable obligations that the offender has for the  
23 support of the offender and any dependents.

24 ~~((+15+))~~ (16) "Day reporting" means a program of enhanced  
25 supervision designed to monitor the offender's daily activities and  
26 compliance with sentence conditions, and in which the offender is  
27 required to report daily to a specific location designated by the  
28 department or the sentencing court.

29 ~~((+16+))~~ (17) "Department" means the department of corrections.

30 ~~((+17+))~~ (18) "Determinate sentence" means a sentence that states  
31 with exactitude the number of actual years, months, or days of total  
32 confinement, of partial confinement, of community supervision, the  
33 number of actual hours or days of community restitution work, or  
34 dollars or terms of a legal financial obligation. The fact that an  
35 offender through earned release can reduce the actual period of  
36 confinement shall not affect the classification of the sentence as a  
37 determinate sentence.

1        ~~((18))~~ (19) "Disposable earnings" means that part of the earnings  
2 of an offender remaining after the deduction from those earnings of any  
3 amount required by law to be withheld. For the purposes of this  
4 definition, "earnings" means compensation paid or payable for personal  
5 services, whether denominated as wages, salary, commission, bonuses, or  
6 otherwise, and, notwithstanding any other provision of law making the  
7 payments exempt from garnishment, attachment, or other process to  
8 satisfy a court-ordered legal financial obligation, specifically  
9 includes periodic payments pursuant to pension or retirement programs,  
10 or insurance policies of any type, but does not include payments made  
11 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
12 or Title 74 RCW.

13        ~~((19))~~ (20) "Drug offender sentencing alternative" is a  
14 sentencing option available to persons convicted of a felony offense  
15 other than a violent offense or a sex offense and who are eligible for  
16 the option under RCW 9.94A.660.

17        ~~((20))~~ (21) "Drug offense" means:

18        (a) Any felony violation of chapter 69.50 RCW except possession of  
19 a controlled substance (RCW 69.50.4013) or forged prescription for a  
20 controlled substance (RCW 69.50.403);

21        (b) Any offense defined as a felony under federal law that relates  
22 to the possession, manufacture, distribution, or transportation of a  
23 controlled substance; or

24        (c) Any out-of-state conviction for an offense that under the laws  
25 of this state would be a felony classified as a drug offense under (a)  
26 of this subsection.

27        ~~((21))~~ (22) "Earned release" means earned release from  
28 confinement as provided in RCW 9.94A.728.

29        ~~((22))~~ (23) "Escape" means:

30        (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
31 first degree (RCW 9A.76.110), escape in the second degree (RCW  
32 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
33 willful failure to return from work release (RCW 72.65.070), or willful  
34 failure to be available for supervision by the department while in  
35 community custody (RCW 72.09.310); or

36        (b) Any federal or out-of-state conviction for an offense that  
37 under the laws of this state would be a felony classified as an escape  
38 under (a) of this subsection.

1           ~~((+23+))~~ (24) "Felony traffic offense" means:  
2           (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
3 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
4 and-run injury-accident (RCW 46.52.020(4)); or  
5           (b) Any federal or out-of-state conviction for an offense that  
6 under the laws of this state would be a felony classified as a felony  
7 traffic offense under (a) of this subsection.  
8           ~~((+24+))~~ (25) "Fine" means a specific sum of money ordered by the  
9 sentencing court to be paid by the offender to the court over a  
10 specific period of time.  
11           ~~((+25+))~~ (26) "First-time offender" means any person who has no  
12 prior convictions for a felony and is eligible for the first-time  
13 offender waiver under RCW 9.94A.650.  
14           ~~((+26+))~~ (27) "Home detention" means a program of partial  
15 confinement available to offenders wherein the offender is confined in  
16 a private residence subject to electronic surveillance.  
17           ~~((+27+))~~ (28) "Legal financial obligation" means a sum of money  
18 that is ordered by a superior court of the state of Washington for  
19 legal financial obligations which may include restitution to the  
20 victim, statutorily imposed crime victims' compensation fees as  
21 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
22 drug funds, court-appointed attorneys' fees, and costs of defense,  
23 fines, and any other financial obligation that is assessed to the  
24 offender as a result of a felony conviction. Upon conviction for  
25 vehicular assault while under the influence of intoxicating liquor or  
26 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
27 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
28 legal financial obligations may also include payment to a public agency  
29 of the expense of an emergency response to the incident resulting in  
30 the conviction, subject to RCW 38.52.430.  
31           ~~((+28+))~~ (29) "Most serious offense" means any of the following  
32 felonies or a felony attempt to commit any of the following felonies:  
33           (a) Any felony defined under any law as a class A felony or  
34 criminal solicitation of or criminal conspiracy to commit a class A  
35 felony;  
36           (b) Assault in the second degree;  
37           (c) Assault of a child in the second degree;  
38           (d) Child molestation in the second degree;

- 1 (e) Controlled substance homicide;
- 2 (f) Extortion in the first degree;
- 3 (g) Incest when committed against a child under age fourteen;
- 4 (h) Indecent liberties;
- 5 (i) Kidnapping in the second degree;
- 6 (j) Leading organized crime;
- 7 (k) Manslaughter in the first degree;
- 8 (l) Manslaughter in the second degree;
- 9 (m) Promoting prostitution in the first degree;
- 10 (n) Rape in the third degree;
- 11 (o) Robbery in the second degree;
- 12 (p) Sexual exploitation;
- 13 (q) Vehicular assault, when caused by the operation or driving of  
14 a vehicle by a person while under the influence of intoxicating liquor  
15 or any drug or by the operation or driving of a vehicle in a reckless  
16 manner;
- 17 (r) Vehicular homicide, when proximately caused by the driving of  
18 any vehicle by any person while under the influence of intoxicating  
19 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
20 any vehicle in a reckless manner;
- 21 (s) Any other class B felony offense with a finding of sexual  
22 motivation;
- 23 (t) Any other felony with a deadly weapon verdict under RCW  
24 9.94A.602;
- 25 (u) Any felony offense in effect at any time prior to December 2,  
26 1993, that is comparable to a most serious offense under this  
27 subsection, or any federal or out-of-state conviction for an offense  
28 that under the laws of this state would be a felony classified as a  
29 most serious offense under this subsection;
- 30 (v)(i) A prior conviction for indecent liberties under RCW  
31 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
32 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
33 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
34 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
- 35 (ii) A prior conviction for indecent liberties under RCW  
36 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
37 if: (A) The crime was committed against a child under the age of  
38 fourteen; or (B) the relationship between the victim and perpetrator is

1 included in the definition of indecent liberties under RCW  
2 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
3 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
4 through July 27, 1997.

5 ~~((+29+))~~ (30) "Nonviolent offense" means an offense which is not a  
6 violent offense.

7 ~~((+30+))~~ (31) "Offender" means a person who has committed a felony  
8 established by state law and is eighteen years of age or older or is  
9 less than eighteen years of age but whose case is under superior court  
10 jurisdiction under RCW 13.04.030 or has been transferred by the  
11 appropriate juvenile court to a criminal court pursuant to RCW  
12 13.40.110. Throughout this chapter, the terms "offender" and  
13 "defendant" are used interchangeably.

14 ~~((+31+))~~ (32) "Partial confinement" means confinement for no more  
15 than one year in a facility or institution operated or utilized under  
16 contract by the state or any other unit of government, or, if home  
17 detention or work crew has been ordered by the court, in an approved  
18 residence, for a substantial portion of each day with the balance of  
19 the day spent in the community. Partial confinement includes work  
20 release, home detention, work crew, and a combination of work crew and  
21 home detention.

22 ~~((+32+))~~ (33) "Persistent offender" is an offender who:

23 (a)(i) Has been convicted in this state of any felony considered a  
24 most serious offense; and

25 (ii) Has, before the commission of the offense under (a) of this  
26 subsection, been convicted as an offender on at least two separate  
27 occasions, whether in this state or elsewhere, of felonies that under  
28 the laws of this state would be considered most serious offenses and  
29 would be included in the offender score under RCW 9.94A.525; provided  
30 that of the two or more previous convictions, at least one conviction  
31 must have occurred before the commission of any of the other most  
32 serious offenses for which the offender was previously convicted; or

33 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
34 of a child in the first degree, child molestation in the first degree,  
35 rape in the second degree, rape of a child in the second degree, or  
36 indecent liberties by forcible compulsion; (B) any of the following  
37 offenses with a finding of sexual motivation: Murder in the first  
38 degree, murder in the second degree, homicide by abuse, kidnapping in

1 the first degree, kidnapping in the second degree, assault in the first  
2 degree, assault in the second degree, assault of a child in the first  
3 degree, or burglary in the first degree; or (C) an attempt to commit  
4 any crime listed in this subsection (~~((+32+))~~) (33)(b)(i); and

5 (ii) Has, before the commission of the offense under (b)(i) of this  
6 subsection, been convicted as an offender on at least one occasion,  
7 whether in this state or elsewhere, of an offense listed in (b)(i) of  
8 this subsection or any federal or out-of-state offense or offense under  
9 prior Washington law that is comparable to the offenses listed in  
10 (b)(i) of this subsection. A conviction for rape of a child in the  
11 first degree constitutes a conviction under (b)(i) of this subsection  
12 only when the offender was sixteen years of age or older when the  
13 offender committed the offense. A conviction for rape of a child in  
14 the second degree constitutes a conviction under (b)(i) of this  
15 subsection only when the offender was eighteen years of age or older  
16 when the offender committed the offense.

17 (~~((+33+))~~) (34) "Postrelease supervision" is that portion of an  
18 offender's community placement that is not community custody.

19 (~~((+34+))~~) (35) "Private school" means a school regulated under  
20 chapter 28A.195 or 28A.205 RCW.

21 (36) "Public school" has the same meaning as in RCW 28A.150.010.

22 (37) "Restitution" means a specific sum of money ordered by the  
23 sentencing court to be paid by the offender to the court over a  
24 specified period of time as payment of damages. The sum may include  
25 both public and private costs.

26 (~~((+35+))~~) (38) "Risk assessment" means the application of an  
27 objective instrument supported by research and adopted by the  
28 department for the purpose of assessing an offender's risk of  
29 reoffense, taking into consideration the nature of the harm done by the  
30 offender, place and circumstances of the offender related to risk, the  
31 offender's relationship to any victim, and any information provided to  
32 the department by victims. The results of a risk assessment shall not  
33 be based on unconfirmed or unconfirmable allegations.

34 (~~((+36+))~~) (39) "Serious traffic offense" means:

35 (a) Driving while under the influence of intoxicating liquor or any  
36 drug (RCW 46.61.502), actual physical control while under the influence  
37 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving

1 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
2 or

3 (b) Any federal, out-of-state, county, or municipal conviction for  
4 an offense that under the laws of this state would be classified as a  
5 serious traffic offense under (a) of this subsection.

6 (~~(37)~~) (40) "Serious violent offense" is a subcategory of violent  
7 offense and means:

8 (a)(i) Murder in the first degree;

9 (ii) Homicide by abuse;

10 (iii) Murder in the second degree;

11 (iv) Manslaughter in the first degree;

12 (v) Assault in the first degree;

13 (vi) Kidnapping in the first degree;

14 (vii) Rape in the first degree;

15 (viii) Assault of a child in the first degree; or

16 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
17 commit one of these felonies; or

18 (b) Any federal or out-of-state conviction for an offense that  
19 under the laws of this state would be a felony classified as a serious  
20 violent offense under (a) of this subsection.

21 (~~(38)~~) (41) "Sex offense" means:

22 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
23 RCW 9A.44.130(11);

24 (ii) A violation of RCW 9A.64.020;

25 (iii) A felony that is a violation of chapter 9.68A RCW other than  
26 RCW 9.68A.070 or 9.68A.080; or

27 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
28 criminal solicitation, or criminal conspiracy to commit such crimes;

29 (b) Any conviction for a felony offense in effect at any time prior  
30 to July 1, 1976, that is comparable to a felony classified as a sex  
31 offense in (a) of this subsection;

32 (c) A felony with a finding of sexual motivation under RCW  
33 9.94A.835 or 13.40.135; or

34 (d) Any federal or out-of-state conviction for an offense that  
35 under the laws of this state would be a felony classified as a sex  
36 offense under (a) of this subsection.

37 (~~(39)~~) (42) "Sexual motivation" means that one of the purposes

1 for which the defendant committed the crime was for the purpose of his  
2 or her sexual gratification.

3 ~~((40))~~ (43) "Standard sentence range" means the sentencing  
4 court's discretionary range in imposing a nonappealable sentence.

5 ~~((41))~~ (44) "Statutory maximum sentence" means the maximum length  
6 of time for which an offender may be confined as punishment for a crime  
7 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
8 the crime, or other statute defining the maximum penalty for a crime.

9 ~~((42))~~ (45) "Total confinement" means confinement inside the  
10 physical boundaries of a facility or institution operated or utilized  
11 under contract by the state or any other unit of government for twenty-  
12 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

13 ~~((43))~~ (46) "Transition training" means written and verbal  
14 instructions and assistance provided by the department to the offender  
15 during the two weeks prior to the offender's successful completion of  
16 the work ethic camp program. The transition training shall include  
17 instructions in the offender's requirements and obligations during the  
18 offender's period of community custody.

19 ~~((44))~~ (47) "Victim" means any person who has sustained  
20 emotional, psychological, physical, or financial injury to person or  
21 property as a direct result of the crime charged.

22 ~~((45))~~ (48) "Violent offense" means:

- 23 (a) Any of the following felonies:
- 24 (i) Any felony defined under any law as a class A felony or an  
25 attempt to commit a class A felony;
  - 26 (ii) Criminal solicitation of or criminal conspiracy to commit a  
27 class A felony;
  - 28 (iii) Manslaughter in the first degree;
  - 29 (iv) Manslaughter in the second degree;
  - 30 (v) Indecent liberties if committed by forcible compulsion;
  - 31 (vi) Kidnapping in the second degree;
  - 32 (vii) Arson in the second degree;
  - 33 (viii) Assault in the second degree;
  - 34 (ix) Assault of a child in the second degree;
  - 35 (x) Extortion in the first degree;
  - 36 (xi) Robbery in the second degree;
  - 37 (xii) Drive-by shooting;

1 (xiii) Vehicular assault, when caused by the operation or driving  
2 of a vehicle by a person while under the influence of intoxicating  
3 liquor or any drug or by the operation or driving of a vehicle in a  
4 reckless manner; and

5 (xiv) Vehicular homicide, when proximately caused by the driving of  
6 any vehicle by any person while under the influence of intoxicating  
7 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
8 any vehicle in a reckless manner;

9 (b) Any conviction for a felony offense in effect at any time prior  
10 to July 1, 1976, that is comparable to a felony classified as a violent  
11 offense in (a) of this subsection; and

12 (c) Any federal or out-of-state conviction for an offense that  
13 under the laws of this state would be a felony classified as a violent  
14 offense under (a) or (b) of this subsection.

15 ~~((46))~~ (49) "Work crew" means a program of partial confinement  
16 consisting of civic improvement tasks for the benefit of the community  
17 that complies with RCW 9.94A.725.

18 ~~((47))~~ (50) "Work ethic camp" means an alternative incarceration  
19 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
20 lower the cost of corrections by requiring offenders to complete a  
21 comprehensive array of real-world job and vocational experiences,  
22 character-building work ethics training, life management skills  
23 development, substance abuse rehabilitation, counseling, literacy  
24 training, and basic adult education.

25 ~~((48))~~ (51) "Work release" means a program of partial confinement  
26 available to offenders who are employed or engaged as a student in a  
27 regular course of study at school.

28 **Sec. 2.** RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read  
29 as follows:

30 (1) An offender who is not a persistent offender shall be sentenced  
31 under this section if the offender:

32 (a) Is convicted of:

33 (i) Rape in the first degree, rape in the second degree, rape of a  
34 child in the first degree, child molestation in the first degree, rape  
35 of a child in the second degree, or indecent liberties by forcible  
36 compulsion;

1 (ii) Any of the following offenses with a finding of sexual  
2 motivation: Murder in the first degree, murder in the second degree,  
3 homicide by abuse, kidnapping in the first degree, kidnapping in the  
4 second degree, assault in the first degree, assault in the second  
5 degree, assault of a child in the first degree, or burglary in the  
6 first degree; or

7 (iii) An attempt to commit any crime listed in this subsection  
8 (1)(a);  
9 committed on or after September 1, 2001; or

10 (b) Has a prior conviction for an offense listed in RCW  
11 9.94A.030(~~(+32+)~~) (33)(b), and is convicted of any sex offense which  
12 was committed after September 1, 2001.

13 For purposes of this subsection (1)(b), failure to register is not  
14 a sex offense.

15 (2) An offender convicted of rape of a child in the first or second  
16 degree or child molestation in the first degree who was seventeen years  
17 of age or younger at the time of the offense shall not be sentenced  
18 under this section.

19 (3) Upon a finding that the offender is subject to sentencing under  
20 this section, the court shall impose a sentence to a maximum term  
21 consisting of the statutory maximum sentence for the offense and a  
22 minimum term either within the standard sentence range for the offense,  
23 or outside the standard sentence range pursuant to RCW 9.94A.535, if  
24 the offender is otherwise eligible for such a sentence.

25 (4) A person sentenced under subsection (3) of this section shall  
26 serve the sentence in a facility or institution operated, or utilized  
27 under contract, by the state.

28 (5) When a court sentences a person to the custody of the  
29 department under this section, the court shall, in addition to the  
30 other terms of the sentence, sentence the offender to community custody  
31 under the supervision of the department and the authority of the board  
32 for any period of time the person is released from total confinement  
33 before the expiration of the maximum sentence.

34 (6)(a)(i) Unless a condition is waived by the court, the conditions  
35 of community custody shall include those provided for in RCW  
36 9.94A.700(4). The conditions may also include those provided for in  
37 RCW 9.94A.700(5). The court may also order the offender to participate  
38 in rehabilitative programs or otherwise perform affirmative conduct

1 reasonably related to the circumstances of the offense, the offender's  
2 risk of reoffending, or the safety of the community, and the department  
3 and the board shall enforce such conditions pursuant to RCW 9.94A.713,  
4 9.95.425, and 9.95.430.

5 (ii) If the offense that caused the offender to be sentenced under  
6 this section was an offense listed in subsection (1)(a) of this section  
7 and the victim of the offense was under eighteen years of age at the  
8 time of the offense, the court shall, as a condition of community  
9 custody, prohibit the offender from residing in a community protection  
10 zone.

11 (b) As part of any sentence under this section, the court shall  
12 also require the offender to comply with any conditions imposed by the  
13 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

14 **Sec. 3.** RCW 72.09.340 and 1996 c 215 s 3 are each amended to read  
15 as follows:

16 (1) In making all discretionary decisions regarding release plans  
17 for and supervision of sex offenders, the department shall set  
18 priorities and make decisions based on an assessment of public safety  
19 risks.

20 (2) The department shall, no later than September 1, 1996,  
21 implement a policy governing the department's evaluation and approval  
22 of release plans for sex offenders. The policy shall include, at a  
23 minimum, a formal process by which victims, witnesses, and other  
24 interested people may provide information and comments to the  
25 department on potential safety risks to specific individuals or classes  
26 of individuals posed by a specific sex offender. The department shall  
27 make all reasonable efforts to publicize the availability of this  
28 process through currently existing mechanisms and shall seek the  
29 assistance of courts, prosecutors, law enforcement, and victims'  
30 advocacy groups in doing so. Notice of an offender's proposed  
31 residence shall be provided to all people registered to receive notice  
32 of an offender's release under RCW 9.94A.612(2), except that in no case  
33 may this notification requirement be construed to require an extension  
34 of an offender's release date.

35 (3)(a) For any offender convicted of a felony sex offense against  
36 a minor victim after June 6, 1996, the department shall not approve a  
37 residence location if the proposed residence: ~~((+a))~~ (i) Includes a

1 minor victim or child of similar age or circumstance as a previous  
2 victim who the department determines may be put at substantial risk of  
3 harm by the offender's residence in the household; or (~~(b)~~) (ii) is  
4 within close proximity of the current residence of a minor victim,  
5 unless the whereabouts of the minor victim cannot be determined or  
6 unless such a restriction would impede family reunification efforts  
7 ordered by the court or directed by the department of social and health  
8 services. The department is further authorized to reject a residence  
9 location if the proposed residence is within close proximity to  
10 schools, child care centers, playgrounds, or other grounds or  
11 facilities where children of similar age or circumstance as a previous  
12 victim are present who the department determines may be put at  
13 substantial risk of harm by the sex offender's residence at that  
14 location.

15 (b) In addition, for any offender prohibited from living in a  
16 community protection zone under RCW 9.94A.712(6)(a)(ii), the department  
17 may not approve a residence location if the proposed residence is in a  
18 community protection zone.

19 (4) When the department requires supervised visitation as a term or  
20 condition of a sex offender's community placement under RCW  
21 9.94A.700(6), the department shall, prior to approving a supervisor,  
22 consider the following:

23 (a) The relationships between the proposed supervisor, the  
24 offender, and the minor; (b) the proposed supervisor's acknowledgment  
25 and understanding of the offender's prior criminal conduct, general  
26 knowledge of the dynamics of child sexual abuse, and willingness and  
27 ability to protect the minor from the potential risks posed by contact  
28 with the offender; and (c) recommendations made by the department of  
29 social and health services about the best interests of the child.

30 NEW SECTION. Sec. 4. (1) The joint task force on sex offender  
31 management is established to examine issues of community safety and the  
32 management of sex offenders in the community and shall work in  
33 collaboration with the partnership for community safety. The task  
34 force shall be composed of one member of each of the two largest  
35 caucuses of the senate, appointed by the president of the senate; one  
36 member of each of the two largest caucuses of the house of  
37 representatives, appointed by the speaker of the house; the secretary

1 of the department of corrections; the superintendent of public  
2 instruction; the secretary of the department of social and health  
3 services; the attorney general; the executive director of the  
4 Washington association of sheriffs and police chiefs; the executive  
5 director of the indeterminate sentence review board; the chair of the  
6 end of sentence review committee; the executive director of the  
7 criminal justice training commission; and a representative each of the  
8 broadcast media and the print media, appointed by the governor. The  
9 task force shall be chaired by one of the legislative members, selected  
10 by the task force members.

11 (2) The task force shall make recommendations to the governor and  
12 the legislature not later than December 1, 2005, on the following  
13 subjects:

14 (a) The effectiveness of community protection zones and other  
15 strategies to promote community safety, including recommendations on  
16 proactive and reactive approaches to sex offender residence locations  
17 and any statutory, constitutional, or practical limitations on the  
18 state's ability to address sex offender housing requirements;

19 (b) Standardization of the community sex offender notification  
20 process;

21 (c) Applicability of the public disclosure act to sex offender  
22 information sharing;

23 (d) The training needs of law enforcement, criminal justice staff,  
24 and school personnel to increase community safety in relationship to  
25 sex offender notification and management strategies; and

26 (e) The impact and advisability of prenotification of local  
27 government officials related to sex offender residence location.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 9.94A RCW  
29 to read as follows:

30 Law enforcement agencies and the department of corrections are  
31 immune from civil liability for damages from discretionary decisions  
32 made under this act if they make a good faith effort to comply with  
33 this act.

34 NEW SECTION. **Sec. 6.** This act expires July 1, 2006."

**SHB 1147** - S COMM AMD

By Committee on Human Services & Corrections

**ADOPTED AS AMENDED 04/12/2005**

1        On page 1, line 2 of the title, after "zones;" strike the remainder  
2 of the title and insert "amending RCW 9.94A.030, 9.94A.712, and  
3 72.09.340; adding a new section to chapter 9.94A RCW; creating a new  
4 section; and providing an expiration date."

EFFECT:        Limits the community protection zone to schools and to  
offenders with one strike.        Adds a joint task force to report on sex  
offender management issues.        Adds an expiration date.

--- END ---